

Assembly Bill No. 256

CHAPTER 723

An act to amend Sections 8169.6, 14669.15, 14669.16, and 14957 of, and to add Section 14672.100 to, the Government Code, relating to public works, and making an appropriation therefor.

[Approved by Governor October 8, 2003. Filed with
Secretary of State October 9, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 256, Kehoe. Public works: state projects and property.

(1) The State Building Construction Act of 1955 authorizes the State Public Works Board to acquire or construct public buildings and to issue revenue bonds, negotiable notes, and negotiable bond anticipation notes to finance that construction. That act also permits the leasing of these public buildings by the board to the Department of General Services or any other state agency approved by the department.

Existing law authorizes the Director of General Services to purchase, exchange, or otherwise acquire real property and construct facilities within the jurisdiction of the Capitol Area Plan for a project consisting of approximately 1,400,000 gross square feet of office space on specified state-owned land with the authorized costs of the facilities not to exceed \$391,000,000.

This bill would revise various provisions related to this project, including authorizing the Department of General Services to contract for deconstruction services related to the project and requiring the department, in the event the bonds authorized for the project are not sold, to commit a sufficient amount of its support budget to repay any outstanding loans. The bill would specify that the authorized costs of the facilities include the costs of planning and concept drawings. The bill would authorize and direct the department to execute and deliver any and all leases, contracts, agreements, or other documents to consummate the sale of the bonds or otherwise effectuate the financing of the project.

(2) Existing law authorizes the Director of General Services to enter into one or more agreements to acquire, construct, purchase, lease, lease-purchase, lease-purchase finance, or lease with an option to purchase, with an initial option purchase price that exceeds \$2,000,000, for the purpose of providing approximately 226,100 net usable square feet of office and related space and 136,000 net usable square feet of parking in a suburban location in the San Diego region. Existing law also authorizes the Director of General Services to enter into a joint powers

agreement with the City of San Diego in connection with the development of approximately 241,000 net usable square feet of new state-owned office space and related facilities at a designated location in San Diego and provides that the authorized costs of the facilities may not exceed \$81,000,000. Existing law authorizes the director to sell, lease, or exchange, based on current market value, the existing state office and parking facilities located in the City of San Diego and requires the net proceeds from these transactions be applied toward any obligation undertaken by the director in securing consolidated facilities for the development of new state-owned office space and related facilities in San Diego described above.

This bill would delete the authority of the director to sell, lease, or exchange the existing state office and parking facilities located in the City of San Diego.

The bill would also delete the authority of the director to enter into a joint powers agreement with the City of San Diego for the development of approximately 241,000 net usable square feet of new state-owned office space and related facilities described above and, instead, would authorize the director to purchase, exchange, or otherwise acquire real property and construct these facilities, including the deconstruction of these facilities. The bill would authorize the State Public Works Board to issue revenue bonds, negotiable notes, or negotiable bond anticipation notes to finance the acquisition of the facilities authorized by the bill. The bill would authorize the State Public Works Board to borrow funds for project costs from the Pooled Money Investment Account or any other lawfully available source. The bill would provide that the authorized costs of the facilities include planning, land acquisition, preliminary plans or concept drawings, working drawings, deconstruction, and construction.

The bill would authorize the director to form a voluntary design advisory committee composed of representatives designated by the City of San Diego and any other individuals designated by the director and would require the director to define the functions of the design advisory committee.

This bill would authorize the director to lease real property appurtenant to or part of the Ione Youth Facility, as described, to the Amador Regional Sanitation Authority for up to 30 years at the rate of \$1 per year for its continued use as a wastewater delivery and disposal system, subject to specified conditions.

(3) Existing law continues in existence the Division of Architecture Revolving Fund and renames that fund the Architecture Revolving Fund. Existing law also provides that money transferred or deposited into the fund is available for expenditure by the Department of General



Services for the purposes for which it is appropriated, contributed, or made available, without regard to fiscal years, with respect to the construction, alteration, repair, and improvement of state buildings.

This bill would expressly provide that special fund moneys in the fund are continuously appropriated without regard to fiscal years.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 8169.6 of the Government Code is amended to read:

8169.6. (a) In furtherance of the Capitol Area Plan, the objectives of Resolution Chapter 131 of the Statutes of 1991, and the legislative findings and declarations contained in Chapter 193 of the Statutes of 1996, relative to the findings by the Urban Land Institute, the director may purchase, exchange, or otherwise acquire real property and construct facilities, including any improvements, betterments, and related facilities, within the jurisdiction of the Capitol Area Plan in the City of Sacramento pursuant to this section. The total authorized scope of the project shall consist of approximately 1,400,000 gross square feet of office space on state-owned land in the Capitol area in downtown Sacramento on Block 204 (bounded by 7th, 8th, O, and P Streets) or Block 203 (bounded by 7th, 8th, N, and O Streets), or both of those blocks. The project will include associated parking onsite and in a parking garage to be constructed on Block 266 (bounded by 8th, 9th, Q, and R Streets). The project cost shall include the cost of rehabilitation of the Heilbron House currently located on Block 204, and the project cost may include the cost of relocation of the Heilbron House.

(b) (1) The department may contract for the lease, lease-purchase, lease with an option to purchase, acquisition, design, design-build, construction, deconstruction, construction management, and other services related to the design and construction of the office and parking facilities. If the director selects design-build as the method of delivery, the department shall use the method of design-build authorized by clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) of Section 14661. The State Public Works Board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3) to finance all costs associated with the acquisition, design, and construction of office and parking facilities for the purposes of this section. The State Public Works Board and the department may borrow funds for project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313. In the event



the bonds authorized by the project are not sold, the Department of General Services shall commit a sufficient amount of its support budget to repay any outstanding loans. It is the intent of the Legislature that this commitment shall be included in future Budget Acts until all outstanding loans are repaid either through the proceeds from the sale of bonds or from an appropriation.

(2) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold may equal, but shall not exceed, the cost of land, planning, preliminary plans, working drawings or concept drawings, performance criteria, construction, deconstruction, furnishings, equipment, construction management and supervision, other costs relating to the design and construction of the facilities, exercising any purchase option, and any additional sums necessary to pay interim and permanent financing costs. The additional amount may include interest and the establishment of a reasonable construction reserve fund to ensure that the funds are available in the event future augmentations are needed to complete the facilities authorized by this section. If the construction reserve funds are not needed to complete construction, they shall be used to repay the future debt payments.

(3) Authorized costs of the facilities for planning, concept drawings or preliminary plans, working drawings, demolition, construction, and other costs shall not exceed three hundred ninety-one million dollars (\$391,000,000). Notwithstanding Section 13332.11, the State Public Works Board may authorize the augmentation of the amount authorized under this paragraph by up to 10 percent of the amount authorized.

(4) The net present value of the cost to acquire and operate the facilities authorized by subdivision (a) may not exceed the net present value of the cost to lease and operate an equivalent amount of comparable consolidated office space over the same time period. The department shall perform this analysis and shall obtain interest rates, discount rates, and Consumer Price Index figures from the Treasurer. For purposes of this analysis, the department shall compare the cost of acquiring and operating the proposed facilities with the amount saved from not having to pay the cost of leasing and operating an equivalent amount of comparable consolidated office space that would no longer need to be leased.

(5) The department is authorized and directed to execute and deliver any and all leases, contracts, agreements, or other documents necessary or advisable to consummate the sale of bonds or otherwise effectuate the financing of the project described in this section.

(6) The State Public Works Board shall not itself be deemed a lead or responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the



Public Resources Code) for any activities under the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3). This paragraph does not exempt the department from the requirements of the California Environmental Quality Act. This paragraph is declarative of existing law.

SEC. 2. Section 14669.15 of the Government Code is amended to read:

14669.15. (a) (1) The Director of General Services may enter into one or more agreements to acquire, construct, purchase, lease, lease-purchase, lease-purchase finance, or lease with an option to purchase, with an initial option purchase price that exceeds two million dollars (\$2,000,000), for the purpose of providing approximately 226,100 net usable square feet of office and related space and 136,000 net usable square feet of parking in a suburban location in the San Diego region.

(2) In connection with the selection and acquisition of a lease, lease-purchase, lease-purchase finance, or lease with an option to purchase, which shall be collectively referred to for purposes of this section as a “lease” or “leases,” the department shall advertise and award the lease or leases in accordance with subdivision (b) of Section 14669 to the lowest responsible bidder offering to provide a building that meets the state’s requirements.

(b) (1) The State Public Works Board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3) to finance the acquisition of the facilities authorized in subdivision (a). The board may borrow funds for project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313. In the event the bonds authorized for the projects are not sold, the Department of General Services shall adjust the Building Rental Account of the Service Revolving Fund by an amount sufficient to repay any loans made by the Pooled Money Investment Account. It is the intent of the Legislature that this commitment be included in future Budget Acts until outstanding loans from the Pooled Money Investment Account are repaid either through the sale of bonds or from an appropriation.

(2) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the cost of acquisition, including land, construction, furnishings and equipment, preliminary plans and working drawings, construction management and supervision, and other costs relating to the design and construction of the facilities, exercising any purchase option, and any additional sums necessary to pay interim and permanent financing costs and costs to issue these



bonds. The additional amount may include interest and a reasonable required reserve fund.

(3) Authorized costs of the facilities, including land acquisition, preliminary plans, working drawings, and construction shall not exceed forty-five million dollars (\$45,000,000) for the suburban facility.

(4) Notwithstanding Section 13332.11, the State Public Works Board may authorize the augmentation of the amount authorized pursuant to this subdivision by up to 10 percent of the amount specifically authorized.

(c) Notwithstanding Section 13340, funds derived from the interim and permanent financing or refinancing of the facilities specified in this section are hereby continuously appropriated without regard to fiscal years for these purposes.

(d) The net present value of the cost to acquire and operate the facilities authorized in subdivision (a) may not exceed the net present value of the cost to lease and operate an equivalent amount of office space, including the present facilities, over the same time period. The Department of General Services, in performing this analysis, shall obtain interest rates, discount rates, and the consumer price index figures from the Treasurer.

(e) The director shall not enter into any agreement to acquire facilities, as specified in subdivision (a), any sooner than 45 days after notification, including the information specified in subdivision (d), to the Chairperson of the Joint Legislative Budget Committee. It is the intent of the Legislature that the Joint Legislative Budget Committee hold a hearing on the pending agreement.

SEC. 3. Section 14669.16 of the Government Code is amended to read:

14669.16. (a) Notwithstanding any other provision of law, the Director of General Services may purchase, exchange, or otherwise acquire real property and construct facilities including any improvements, betterments, and related facilities in the City of San Diego. The total authorized scope of the project shall consist of approximately 241,000 net usable square feet of new state-owned office space in the City of San Diego in the general vicinity of Ash, Union, "A," State, and Front Streets. This development shall include, but not be limited to, the financing, planning, acquisition, construction, deconstruction, equipping, and furnishing of new state office buildings and associated child care and parking facilities, and any betterments, improvements, and facilities related to the development. The department may contract for the lease, lease-purchase, lease with an option to purchase, acquisition, design, design-build, construction, deconstruction, construction management, and other services related to



the design and construction of the office, child care, and parking facilities. The development shall comply with state policies related to sustainability and architectural excellence in public buildings.

(b) (1) The State Public Works Board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3) to finance the acquisition, design, and construction of the facilities authorized in subdivision (a). The board may borrow funds for project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313 or any other lawfully available source including, but not limited to, the General Fund. In the event the bonds authorized for the project are not sold, the Department of General Services shall commit a sufficient amount of its support budget to repay any outstanding loans. It is the intent of the Legislature that this commitment be included in future Budget Acts until outstanding loans are repaid either through the sale of bonds or from an appropriation.

(2) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the cost of acquisition, including land, construction, deconstruction, furnishings and equipment, preliminary plans or concept drawings, working drawings, performance criteria, construction management and supervision, and other costs relating to the design and construction of the facilities, exercising any purchase option, and any additional sums necessary to pay interim and permanent financing costs and costs to issue these bonds. The additional amount may include interest and the establishment of a reasonable construction reserve fund to ensure that the funds are available in the event future augmentations are needed to complete the facilities authorized in subdivision (a). If these construction funds are not needed to complete the construction, they shall be used to repay the future debt payments.

(3) Authorized costs of the facilities, including planning, land acquisition, preliminary plans or concept drawings, working drawings, deconstruction, construction, and other costs shall not exceed eighty-one million dollars (\$81,000,000).

(c) In connection with the development or any agreement for any work or expenses in connection with the development, the Director of General Services may use any funds lawfully available to him or her in order to complete the development.

(d) It is in the best interest of the people of the state to consolidate state offices in the City of San Diego. If the director selects design-build as the method of delivery, the department shall use the method of



design-build authorized by clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) of Section 14661.

(e) The director may form a voluntary advisory committee composed of representatives designated by the City of San Diego and any other individuals designated by the director. The design advisory committee's functions shall be defined by the director, be in the best interest of the state, and comply with all applicable laws.

(f) The department is authorized and directed to execute and deliver any and all leases, contracts, agreements, or other documents necessary or advisable to consummate the sale of bonds or otherwise effectuate the financing of the project described in subdivision (a).

SEC. 4. Section 14672.100 is added to the Government Code, to read:

14672.100. (a) Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of the Youth Authority, may lease real property appurtenant to or part of the Ione Youth Facility as designated by the Department of the Youth Authority, which real property located in the County of Amador comprises the easements known as the Preston Ditch, Henderson Reservoir, Preston Reservoir, Preston Forebay, certain water rights with a diversion point on Sutter Creek, unused land at the Ione Youth Facility, and other pipelines and facilities leased to the County of Amador as lessee in the document entitled "Agreement for Wastewater Management Plan" dated March 22, 1978, which interests have been assigned to the Amador Regional Sanitation Authority, a joint powers agency comprised of the County of Amador and the Cities of Amador City and Sutter Creek. The new lease shall be for a term not to exceed 30 years and at the rate of one dollar (\$1) per year, to the Amador Regional Sanitation Authority for its continued use as a wastewater delivery and disposal system. The lease shall contain the terms and conditions for wastewater disposal and other matters to which the parties agree.

(b) The lease shall provide that the property shall be leased "as is" and that the state shall have no liability for repairs, rehabilitation, or other improvements. It shall provide that the lessee, Amador Regional Sanitation Authority, shall operate the leased property pursuant to the terms of the lease under those terms and conditions, as deemed to be in the best interest of the state.

(c) The lease described in this section shall be exempt from the requirements of Division 13 (commencing with Section 2100) of the Public Resources Code.

(d) The Department of General Services shall be reimbursed for its cost related to the lease, including, but not limited to, any survey costs, title transfer fees, administrative costs, and department staff time.



(e) The Legislature finds and declares that the lease of the described portion of the Ione Youth Facility and appurtenant real property to the Amador Regional Sanitation Authority for use as a wastewater delivery and disposal system pursuant to this section is for a statewide public purpose.

SEC. 5. Section 14957 of the Government Code is amended to read:

14957. (a) The Division of Architecture Revolving Fund in the State Treasury is continued in existence and is retitled the Architecture Revolving Fund. With the approval of the Department of Finance, and except as otherwise specified in this section, there shall be transferred to, or deposited in, the fund all money appropriated, contributed, or made available from any source, including sources other than state appropriations, for expenditure on work within the powers and duties of the Department of General Services with respect to the construction, alteration, repair, and improvement of state buildings, including, but not limited to, services, new construction, major construction and equipment, minor construction, maintenance, improvements, and equipment, and other building and improvement projects, as authorized by the state agency for which an appropriation is made or, as to funds from sources other than state appropriations, as may be authorized by written agreement between the contributor or contributors of funds and the Department of General Services, when approved by the Department of Finance.

(b) Money from state sources transferred to, or deposited in, the fund for major construction shall be limited to the amount necessary based on receipt of competitive bids. Money transferred for this purpose shall be upon approval of the Department of Finance. Any amount available, in the state appropriation, which is in excess of the amount necessary based on receipt of competitive bids, shall be immediately transferred to the credit of the fund from which the appropriation was made.

(c) Money in the fund also may be used, upon approval of the Department of Finance, to finance the cost of any construction projects within the powers and duties of the Department of General Services for which the federal government will contribute a partial cost thereof, provided, written evidence has been received from a federal agency that money has been appropriated by Congress and the federal government will pay to the state the amount specified upon the completion of construction of the project. The Director of General Services may approve plans, specifications and estimates of cost, and advertise for and receive bids on projects in anticipation of the receipt of written evidence from a federal agency.

(d) Money so transferred or deposited is available for expenditure by the Department of General Services for the purposes for which



appropriated, contributed, or made available, without regard to fiscal years.

Notwithstanding Section 13340, special fund moneys in the Division of Architecture Revolving Fund, are continuously appropriated to the Department of General Services for these purposes.

